



Reprinted  
January 29, 2008

## SENATE BILL No. 121

DIGEST OF SB 121 (Updated January 28, 2008 4:54 pm - DI 110)

**Citations Affected:** IC 8-14; IC 36-1.

**Synopsis:** Donations by local units to community foundations. Allows a unit of local government (unit) to donate money in the unit's local major moves construction fund to a charitable nonprofit community foundation. (Current law allows the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or riverboat gaming revenue to be donated.) Allows a donation by a unit to be held by a charitable nonprofit community foundation as either a permanent endowed designated fund or as a nonendowed designated fund. Requires a unit to specify whether a donation shall be held by the charitable nonprofit community foundation as a permanent endowed designated fund or as a nonendowed designated fund. Provides that if a unit specifies a donation shall be held as a nonendowed designated fund, the unit has access to the donation and income at any time. Requires that the income that accrues from the investment of money from the next generation trust fund (fund) be deposited in the fund and be transferred to the major moves construction fund at certain times. (Current law requires interest that accrues from the money be deposited in the fund and be transferred to the major moves construction fund at certain times.)

**Effective:** July 1, 2008.

**Riegsecker, Zakas**

January 8, 2008, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.  
January 14, 2008, amended, reported favorably — Do Pass.  
January 28, 2008, read second time, amended, ordered engrossed.

SB 121—LS 6362/DI 114+



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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## SENATE BILL No. 121

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 8-14-15-8 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The trustee shall:  
3 (1) administer the trust;  
4 (2) invest the money in the trust; and  
5 (3) deposit in the trust any **interest income** that accrues from the  
6 investment of these funds.  
7 (b) notwithstanding IC 5-13, the trustee shall invest the money in  
8 the trust not currently needed to meet the obligations of the trust in the  
9 same manner as money is invested by the public employees' retirement  
10 fund under IC 5-10.3-5. However, the trustee may not invest the money  
11 in the trust in equity securities. The trustee shall also comply with the  
12 prudent investor rule set forth in IC 30-4-3.5. The trustee may contract  
13 with investment management professionals, investment advisors, and  
14 legal counsel to assist in the investment of the trust and may the state  
15 expenses incurred under those contracts from the trust.  
16 (c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust established  
17 under this chapter.

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(d) Money in the trust at the end of a state fiscal year does not revert to the state general fund.

SECTION 2. IC 8-14-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.(a) The principal of the trust may not be diminished during the term of the trust.

(b) The income that accrues from investment of the trust shall be deposited in the trust.

(c) On March 15, 2011, March 15, 2016, and March 15 every five (5) years thereafter, the treasurer of state shall transfer all ~~interest~~ **income** accruing to the trust to the major moves construction fund.

SECTION 3. IC 8-14-16-5, AS AMENDED BY P.L.232-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Money in the fund may be expended only for the following purposes:

(1) Construction of highways, roads, and bridges.

(2) In a county that is a member of the northwest Indiana regional development authority, or in a city or town located in such a county, any purpose for which the regional development authority may make expenditures under IC 36-7.5.

(3) Providing funding for economic development projects (as defined in IC 6-3.5-7-13.1(c)(1) or IC 6-3.5-7-13.1(c)(2)(A) through IC 6-3.5-7-13.1(c)(2)(K)).

(4) Matching federal grants for a purpose described in this section.

(5) Providing funding for interlocal agreements under IC 36-1-7 for a purpose described in this section.

(6) Providing the county's, city's, or town's contribution to a regional development authority established under IC 36-7.6-2-3.

**(7) Making a donation to a charitable nonprofit community foundation under IC 36-1-14-1.**

SECTION 4. IC 36-1-14-1, AS AMENDED BY P.L.2-2006, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This section does not apply to donations of proceeds from riverboat gaming to a public school endowment corporation under IC 20-47-1-3.

(b) As used in this section, "riverboat gaming revenue" means tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate **money deposited in the unit's local major moves construction fund under IC 8-14-16**, the proceeds from the sale of a utility or facility, or **the proceeds** from a grant, a gift, a donation, an endowment, a bequest, a

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trust, or riverboat gaming revenue to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) **Subject to subsection (e)**, the foundation retains all rights to the donation, including investment powers.

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent ~~endowment~~ **endowed designated fund or as a nonendowed designated fund**.

(B) ~~Distribute the income from the donation~~ **Except as provided in subsection (e), make distributions** only to the unit as directed by resolution of the fiscal body of the unit.

(C) Return the donation to the general fund of the unit if the foundation:

(i) loses the foundation's status as a public charitable organization;

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the fiscal body of the unit.

**(d) A unit shall, at the time the unit makes a donation to a charitable nonprofit community foundation under this section, specify whether the donation shall be held by the charitable nonprofit community foundation as a permanent endowed designated fund or as a nonendowed designated fund.**

**(e) If a unit specifies that the donation shall be held by the charitable nonprofit community foundation as a nonendowed designated fund under subsection (d), the unit shall have access to the donation and income from the donation at any time.**

**(f) If:**

**(1) a unit donates certain funds to a charitable nonprofit community foundation under subsection (c);**

**(2) the purposes for which the funds could be used were restricted before the unit donated the funds to the charitable nonprofit community foundation; and**

**(3) after the donation, the unit accesses the donated funds or income from the donated funds under subsection (e);**

**the purposes for which the funds may be used after they are accessed by the unit are subject to the same restrictions as applied before the funds were donated to the charitable nonprofit community foundation under subsection (c).**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 121, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 20, delete "The" and insert "**Subject to subsection (e),** the".

and when so amended that said bill do pass.

(Reference is to SB 121 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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 SENATE MOTION

Madam President: I move that Senator Zakas be added as second author of Senate Bill 121.

RIEGSECKER

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 SENATE MOTION

Madam President: I move that Senate Bill 121 be amended to read as follows:

Page 3, after line 1, begin a new paragraph and insert:

"(f) If:

- (1) a unit donates certain funds to a charitable nonprofit community foundation under subsection (c);
- (2) the purposes for which the funds could be used were restricted before the unit donated the funds to the charitable nonprofit community foundation; and

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**(3) after the donation, the unit accesses the donated funds or income from the donated funds under subsection (e); the purposes for which the funds may be used after they are accessed by the unit are subject to the same restrictions as applied before the funds were donated to the charitable nonprofit community foundation under subsection (c)."**

(Reference is to SB 121 as printed January 15, 2008.)

RIEGSECKER

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SENATE MOTION

Madam President: I move that Senate Bill 121 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-14-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The trustee shall:

- (1) administer the trust;
- (2) invest the money in the trust; and
- (3) deposit in the trust any ~~interest~~ **income** that accrues from the investment of these funds.

(b) notwithstanding IC 5-13, the trustee shall invest the money in the trust not currently needed to meet the obligations of the trust in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the trustee may not invest the money in the trust in equity securities. The trustee shall also comply with the prudent investor rule set forth in IC 30-4-3.5. The trustee may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the trust and may the state expenses incurred under those contracts from the trust.

(c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust established under this chapter.

(d) Money in the trust at the end of a state fiscal year does not revert to the state general fund.

SECTION 2. IC 8-14-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.(a) The principal of the trust may not be diminished during the term of the trust.

(b) The income that accrues from investment of the trust shall be deposited in the trust.

(c) On March 15, 2011, March 15, 2016, and March 15 every five

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(5) years thereafter, the treasurer of state shall transfer all ~~interest~~  
**income** accruing to the trust to the major moves construction fund.

Renumber all SECTIONS consecutively.

(Reference is to SB 121 as printed January 15, 2008.)

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